

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
DOCKET NO. 3:12-cv-00606-W**

JONATHAN HOLMES,

Plaintiff,

vs.

RONNIE RAY,

Defendant.

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ORDER

THIS MATTER is before the Court on Plaintiff's "Motion for Remand from Federal Court to State Court" (Doc. No. 5), filed October 15, 2012. Plaintiff, who appears *pro se*, initially filed this action in this Court on September 14, 2012, asserting what appears to be causes of action arising from his previous employment. Plaintiff now requests this Court "remand" this case to state court "due to the matter falling under state law, rather than federal." This Court's power to remand stems from 28 U.S.C. § 1447(c), which allows remand "within 30 days after the filing of the notice of removal under section 1446(a)." Plaintiff originally filed this action in federal court—not state court—and therefore, since it was not removed from a state court, the Court does not have the prerogative to "remand" it. If Plaintiff instead seeks to have this case voluntarily dismissed pursuant to Rule 41 of the Federal Rules of Civil Procedure in order to file in state court, he should explicitly request such relief in a motion bearing in mind any statute of limitations issues that may arise.

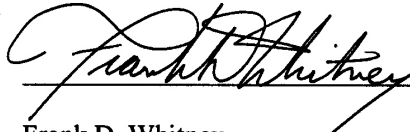
To some extent, Plaintiff's *pro se* motion—construed liberally—requests leave of Court to amend his complaint to add a party, namely US Airways. Because it does not appear that a responsive pleading or answer has been filed, the Court will allow Plaintiff's motion to amend his Complaint as a matter of course pursuant to Federal Rule of Civil Procedure 15(a)(1). **Plaintiff**

should file his amended complaint no later than ten (10) calendar days from the date of this Order, or by October 26, 2012. Plaintiff is responsible for preparing and filing any additional summons to be served by the US Marshal.

IT IS THEREFORE ORDERED that Plaintiff's pro se motion (Doc. No. 5) is GRANTED IN PART AND DENIED IN PART. That portion of his motion seeking remand is DENIED, and that portion of his motion seeking to amend his complaint is GRANTED.

IT IS SO ORDERED.

Signed: October 16, 2012


Frank D. Whitney
United States District Judge

